

APR 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS NAPOLEON ZAVALA PERLA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-73727

Agency No. A036-096-360

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 13, 2009\*\*

Before: GRABER, GOULD, and BEA, Circuit Judges.

Luis Napoleon Zavala Perla, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum, withholding of

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

removal, and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo whether a particular conviction constitutes an aggravated felony, *Randhawa v. Ashcroft*, 298 F.3d 1148, 1151 (9th Cir. 2002), and we review for substantial evidence the factual determinations underlying a denial of CAT relief, *Lemus-Galvan v. Mukasey*, 518 F.3d 1081, 1084 (9th Cir. 2008). We deny the petition for review.

The agency did not err in finding Zavala Perla removable as an aggravated felon under 8 U.S.C. § 1227(a)(2)(A)(iii) because his conviction under 18 U.S.C. § 1708 categorically constitutes a theft offense and Zavala Perla was sentenced to a term of imprisonment of at least one year for his crime. *See* 8 U.S.C. § 1101(a)(43)(G); *Randhawa*, 298 F.3d at 1153-54.

A reasonable factfinder would not be compelled to reverse the agency’s denial of CAT relief because Zavala Perla has not shown that it is more likely than not that he would be tortured if returned to El Salvador. *See Lemus-Galvan*, 518 F.3d at 1084.

We need not reach Zavala Perla’s remaining contentions because he does not challenge the agency’s determination that he is ineligible for asylum and withholding of removal due to his criminal convictions.

**PETITION FOR REVIEW DENIED.**